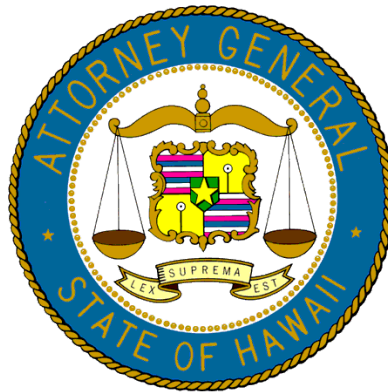


State of Hawai'i
Department of the Attorney General



REPORT ON REVIEW OF GUN AMNESTY
PROGRAMS IN OTHER STATES AND THEIR
POTENTIAL APPLICABILITY IN HAWAII,
FINDINGS AND RECOMMENDATIONS

Requested by
House Concurrent Resolution No. 55
Regular Session of 2017

Submitted to
The Twenty-Ninth State Legislature
Regular Session of 2018

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A. INTRODUCTION

By House Concurrent Resolution No. 55, adopted during the regular session of 2017, the Legislature requested that the Attorney General review gun amnesty programs in other states, confer with the Chief of Police of each county regarding potential barriers to the implementation of a gun amnesty program in this State, and submit a report of any findings and recommendations to the Legislature. Gun amnesty programs have been used by law enforcement agencies as a way to reduce or remove from circulation, the number of firearms in a community, and ultimately reduce gun-related crime. These programs allow individuals to surrender firearms without risk of prosecution or questioning, and do not require the participants to identify themselves. Gun amnesty programs often run in conjunction with gun buyback programs. A buyback program will compensate the individual with cash or a gift card in exchange for the firearm, as an incentive and to encourage civilians to turn in unwanted firearms.

On July 28, 2017, United States Representative Donald Payne (D-N.J.) introduced H.R. 3613, the Safer Neighborhoods Gun Buyback Act of 2017.¹ The bill authorizes the Department of Justice's Bureau of Justice Assistance (BJA) to make grants to states, local governments, or gun dealers to conduct gun buyback programs. The BJA may distribute smart prepaid cards for use by a state, local government, or gun dealer to compensate individuals who dispose of firearms. Additionally, the bill amends the federal criminal code to make it a crime to use or accept a smart prepaid card in the acquisition or transfer of a firearm or ammunition. A violator is subject to a fine, up to two years in prison, or both. The bill was referred to the House Subcommittee on Crime, Terrorism, Homeland Security, and Investigations on September 6, 2017, where it currently sits.

B. OVERVIEW OF GUN AMNESTY PROGRAMS IN OTHER STATES

Given gun amnesty programs are run by local police departments, and research found no state law for a gun amnesty program, this report focuses on three cities in the continental United States. The cities chosen are those with populations close to that of the State of Hawaii, the island of Oahu and Maui County. It is important to note that while the populations may be similar, firearms laws vary greatly between these states and Hawaii, as well as cultural and demographic differences. Police departments typically will not deny a person from turning in an unwanted firearm, whether or not the department has an amnesty or buyback program. For each of the three cities researched, amnesty programs were held in conjunction with a buyback, funded from various sources.

¹ <https://www.congress.gov/bill/115th-congress/house-bill/3613>

1. San Diego, California

The city of San Diego has a population of approximately 1.4 million people,² which is comparable in size to the State of Hawaii's combined population.³ The San Diego Police Department makes efforts to hold gun buyback events two times a year. As recently as December 2, 2017, a buyback event was held and the department plans to hold another on December 16, 2017. These buybacks are funded by donations from the San Diego Police Foundation, the district attorney, state or federal grants, and the sheriff's asset forfeiture department. Police officers and civilians are employed to assist with the program, wherein civilians are paid through the grant. The one-day event held from 8 a.m. until 1 p.m. yielded 164 firearms in exchange for \$24,900 in Walmart gift cards. The program provided \$150 for each handgun, shotgun, or rifle, and \$250 for each assault rifle. Of the 164 firearms collected, three were assault rifles. Only operable firearms were received, and there was a three-firearm limit per person. A person turning in a firearm is not asked for identification, but is given a receipt for each weapon turned in. Every firearm collected is checked to determine whether it was reported stolen and, if so, returned to the owner. A ballistics test is not conducted to determine if the gun was used in a crime. Some buyback events have drawn Second Amendment activists who set up tents next to the event and offer citizens more money for their firearms than what the buyback offers. Police officers do their best to maintain the integrity of the buyback program and issue warnings to those who are in violation of the law by interfering with the event. After collection, the guns are shipped to a private company to be melted down. The San Diego Police Department issues media releases and email blasts and advertises the event on social media to inform as many people as possible about the event. The goal of the program is motivated from a safety standpoint. Unwanted firearms in a home are more likely to be used improperly, get in the hands of children, or be subject to theft through a burglary.⁴

2. Austin, Texas

The city of Austin has a population of approximately 947,000 people,⁵ which is comparable in size to the population on the island of Oahu.⁶ The Austin Police Department has only held two gun buyback programs. The first was held in 2010 and the second in 2011. The program was sponsored by the police department and the Greater Austin Crime Commission. It allowed citizens to turn in weapons without showing identification and, in return, VISA gift cards were issued. Each firearm turned in was tested to see whether it was linked to criminal activity, and checked to determine if it was reported stolen. No guns received were found to

² United States Census Bureau, population estimate as of July 1, 2016, for the city of San Diego, California

³ United States Census Bureau, population estimate as of July 1, 2016, is 1,428,557 for the State of Hawaii

⁴ Information on the San Diego Police Department's gun buyback program was provided by Community Relations Police Officer Carlos Laccara who runs the program.

⁵ United States Census Bureau, population estimate as of July 1, 2016, for the city of Austin, Texas

⁶ United States Census Bureau, population estimate as of July 1, 2016, is 992,605 for the island of Oahu

be linked to a crime. Funding was provided by private donations from the Greater Austin Crime Commission, and a person would receive a \$100 gift card for each handgun or rifle, and a \$200 gift card for each assault rifle. Air guns, BB guns or replica guns could net \$10 gift cards each. For the first event, \$30,000 in gift cards was distributed, and \$40,000 was distributed in the second. Guns were not accepted from firearms dealers, although given identification is not checked, it is difficult to determine whether a dealer turned in a gun. The first buyback did not restrict how many guns a person could turn in. This posed a problem when gun enthusiasts wanting to make money, turned in a number of guns causing the gift cards to run out within hours. The second buyback was restricted to two firearms per person. Most of the firearms collected would be properly destroyed through routine evidence destruction. The one-day event collected 340 weapons in the first buyback, and 396 collected in the second. Only seven assault rifles were turned in during the two buybacks. The second event yielded five sawed-off shotguns. Most of the firearms received were unwanted guns that were gifted or bequeathed by will. Some were found to be valuable for training purposes within the police department, and others were found to hold historical value and were put on display. While the two day-long events successfully collected over 700 guns, Austin Police Department has not held another buyback due to funding. Additionally, Texas lawmakers passed state law prohibiting the destruction of a firearm. Much like San Diego, Austin Assistant Police Chief Ely Reyes said the main goals of the program are to keep unwanted firearms off the street and help families that do not know what to do with unwanted firearms in their home. The program is not an attempt to diminish Second Amendment rights.⁷ The buyback program attracted Second Amendment activists who attended the event who offered a cash option at a higher value than the gift card, in exchange for their firearms. These activists, like Texans for Accountable Government, offer to buy the guns and give them to local Texans in need, who cannot afford them. Those receiving the firearms will be asked to volunteer for community philanthropy projects to make the city a safer and enjoyable place to live.⁸

3. Tampa, Florida

The city of Tampa has a population of approximately 377,000 people.⁹ While Maui County has a population of approximately only 165,000,¹⁰ research shows that police departments patrolling cities having a population of less than 200,000 were void of holding buyback programs. Therefore, the city of Tampa was chosen due to its experience in holding these programs and its population size as a middle ground. In June 2015, after a four-year hiatus, the Tampa Police Department held a daylong buyback event in June. Funded by a \$50,000 donation from the Tampa Bay Lightning ice hockey team, the

⁷ Information on the Austin Police Departments gun buyback program was provided by Assistant Chief Ely Reyes, who runs the program.

⁸ *Pro gun activists outbid police in gun buyback*, ammoland.com (March 29, 2011)

⁹ United States Census Bureau, population estimate as of July 1, 2016 for Tampa, Florida

¹⁰ United States Census Bureau, population estimate as of July 1, 2016 for Maui County, Hawaii

buyback offered \$50 to residents in exchange for an operating firearm with no questions asked. The event collected 521 firearms. Rifles, shotguns, pistols and a few sawed-off shotguns were among the firearms collected. The guns were first checked to determine whether they had been reported stolen, and eventually were destroyed and melted down. The mission of Tampa's gun buyback program is similar to the programs of the cities of San Diego and Austin: to keep unused or unwanted guns out of the hands of criminals. Much like San Diego and Austin, Tampa's gun buyback attracted local activists offering to buyback firearms for more money, and "buying weapons that need to be saved." Gun activists at the event attempted to convince people not to sell their antique or heirloom firearms to the police, for what they believed to be far too little money. Some residents opted to take advantage of the offer for more money, and instead sold their guns to the activists. Former Tampa Police Chief Brett Bartlett said that most illegal guns end up on the street through car burglaries or home invasions. Helping people get rid of guns they are not using is just one way to get ahead of the violence. Much like San Diego and Austin, the goal is not to solve crime, it is to prevent crime.¹¹

C. Comments from County Police Chiefs

KAUAI

Chief of Police Darryl D. Perry, for the County of Kauai, reported that, in the past 10 years, a gun amnesty program has not been conducted in the County of Kauai. Chief Perry indicated that he is in support of such a program, although logistical challenges may arise. He believes an amnesty program will create a safer community for local citizens, visitors, and police officers. He plans to implement an amnesty program in 2018. Additionally, Chief Perry mentioned that he participated in a program as a Captain when he was employed with the Honolulu Police Department and found the program to be very effective in removing unwanted firearms from the community.

MAUI

Chief of Police Tivoli S. Faaumu, for the County of Maui, expressed his concern of the public's fear of prosecution when turning in a firearm. He suggested taking steps to make it apparently clear that anonymity will be stressed. Chief Faaumu is in support of a program in Hawaii as it would be most beneficial to the community and visitors.

HONOLULU

Chief of Police Susan Ballard, for the City and County of Honolulu, supports the idea of a gun amnesty program. Chief Ballard reported that the Honolulu Police Department has participated in buybacks in the past and has been successful in

¹¹ *Tampa police gun buy-back program nets more than 500 firearms*, tampabay.com (June 27, 2015)

collecting over 1,000 firearms. The concerns are deciding on what will be used to fund the program and how much can be offered to citizens for turning in their firearms. Chief Ballard supports using gift cards in exchange for turning in firearms, to avoid mismanagement of moneys. Additional concerns are the reimbursement for administrative costs and staffing shortages. Chief Ballard also recommends utilizing drop-off locations other than the police station to assuage fear of prosecution.

HAWAII

Chief of Police Paul K. Ferreira, for the County of Hawaii, stated that his department has never participated in an amnesty program involving firearms, but is always interested in ways to remove illicit weapons from the community as they can be a direct threat to his officers and the public they serve. Chief Ferreira raised a concern with the anonymity of the program. His concern rests on how to address family members of a homicide that although the firearm used in the crime has been turned in, it cannot be used as evidence against the perpetrator due to the amnesty program. Additionally, if a stolen firearm is collected, the victim of the theft may be frustrated that the thief will not be prosecuted. Chief Ferreira also pointed out that paying for firearms could create a market for more firearm thefts. Chief Ferreira expressed his interest in reviewing proposed legislation for a gun amnesty or buyback program before submission to the state legislature.

D. Potential Applicability in Hawaii

The Honolulu Police Department reported that it participated in four gun buyback programs since 1992. Each buyback event lasted two weeks. The most recent was held seventeen years ago in 2000. For the 2000 program, the state Housing and Community Development Corporation of Hawaii oversaw the program and was funded by Buyback America, a program initiated by the federal Housing and Urban Development Department (HUD). The program was originally slated to be held for one week, however HUD wanted to give residents more time, and extended the program for an additional week. The program offered \$50 Foodland gift certificates, with a “no questions asked” policy. The program worked in collaboration with the Honolulu Fire Department who allowed its stations to be used as drop-off locations. A goal of receiving at least 250 firearms was set, but after the first week, police received only 82 firearms. Of those 82 guns, 44 were handguns, 33 were rifles, and five were shotguns. No assault weapons were turned in. After an additional week, a total of 338 firearms was received. Police checked each gun to determine whether it was stolen, and then the collected firearms were sent to a metal recycling company to be shredded. A total of 1,498 firearms was collected during the four buyback programs.

There is no doubt an amnesty or buyback program can be implemented in Hawaii. Whether programs adopted in other states can be applied here, will depend on funding, support, and options for destruction of the collected firearms. *Gun by Gun* is a San Francisco-based nonprofit organization founded in 2013 that helps fund gun buybacks. With 93 Americans killed by guns every day, *Gun By Gun* works to remove unwanted guns from homes and neighborhoods.¹² All buybacks are not created equal: the design and implementation can have a dramatic impact on their effectiveness in reducing gun violence. Since buybacks became a popular tool for addressing gun violence in the early 1990s, studying their efficacy has helped public safety experts improve their implementation. *Gun by Gun* suggests the following for effective gun buybacks:

- Structuring compensation to attract the right guns. The ideal schedule should incentivize collection of the most dangerous guns (e.g., a graded system with larger rewards for handguns and assault weapons) and avoid incentivizing participation by gun collectors or creating arbitrage opportunities.
- Advertising for buyback events should focus on at-risk populations, including youth, parents, and gun owners who self-identify as being concerned about safety. Partnership with community organizations and institutions to promote the event can improve the participation and impact.
- All guns collected should be destroyed. Allowing collected guns to re-enter circulation undermines objectives of community organizers, and the educational campaigns designed to encourage participation.
- Participation in the event should be anonymous. Municipalities have found ways to require and verify that participants are city residents, while still preserving the anonymity.
- Buybacks should be held in neutral locations, such as community centers and houses of worship, rather than at police stations.
- Community participation in the initiation, implementation, and funding of gun buybacks can improve the secondary impacts of the event. Following these science-based practices for effectiveness, gun buybacks can be a powerful addition to any comprehensive, multi-pronged approach addressing gun violence.¹³

E. Findings and recommendations

Research shows that there is a difference of opinion whether gun buybacks are effective in reducing crime or collecting stolen firearms or those used in crimes. Those opposing gun buyback programs point out that the firearms surrendered in these programs are typically those least likely to be used in criminal activities. Typically, the guns turned in tend to either be too old where the resale value is less than the reward offered in the buyback program, or guns owned by individuals who derive little value from owning the gun (e.g., those who have

¹² <http://www.gunxgun.org/buybacks>

¹³ <http://www.gunxgun.org/buybacks>

inherited a firearm). The Police Executive Research Forum (1996) found this in their analysis of the differences between weapons handed in and those used in crimes. In contrast, those who are either using guns to carry out crimes or as protection in the course of engaging in other illegal activities, such as drug selling, have actively acquired their guns and are unlikely to want to participate in such programs.¹⁴

In spite of opposing views, President William J. Clinton announced HUD's Buyback America in September 1999. The buyback program was an unprecedented initiative designed to reduce the toll of gun violence that claims an average of 30,000 lives and wounds another 100,000 people each year in the United States.¹⁵ Buyback America was the first and last of its kind despite Democratic push for more federal funding. In spite of gun buyback programs held locally throughout our country, Americans have seen more tragic mass shootings in recent years than ever before. Whether amnesty or buyback programs are effective is up for debate.

A well thought-out buyback program will help the success rate in collecting unwanted firearms. Questions and suggestions to consider:

- Will only operable firearms be accepted?
- Will guns from firearms dealers be accepted?
- Develop a plan to address activists offering higher buyback prices.
- Who will destroy the firearms collected?
- Will a ballistics test be conducted to determine whether gun was used in a crime?
- How much will be offered for each gun?
- Will more money be offered for assault weapons?
- Will ammunition be accepted?
- Will there be a limit on how many guns a person may turn in?
- How long will the program run?
- Will identification information be asked, such as a zip code, for statistical purposes?

These are just a few of the questions and issues that need to be addressed before a successful gun amnesty/buyback program can be implemented. To combat push-back from Second Amendment activists, the goal of the program should be to allow people a safe way to dispose of unwanted firearms; not to interfere with a Constitutional right. While studies have shown guns collected in buybacks typically are not the type used in the commission of a crime, law enforcement supports gun buybacks simply because an unwanted gun collected and destroyed is one less gun that can get in the wrong hands.

¹⁴ *4 Interventions Aimed at Illegal Firearm Acquisition*, National Research Council (2005).

¹⁵ *HUD to move forward with buyback America despite congressional efforts to halt program*, HUD Archives: News Release (July 30, 2000)